

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

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|---------------------|---|----------------------------------|
| Mikaela Sanders, |) | |
| |) | |
| Plaintiff, |) | C.A. No. <u>2:22-cv-2095-DCN</u> |
| |) | |
| vs. |) | |
| |) | |
| |) | COMPLAINT |
| |) | [JURY TRIAL DEMANDED] |
| City Of Charleston, |) | |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |

The Plaintiff, Mikaela Sanders complaining of the Defendant herein, does respectfully allege as follows:

PARTIES

1. The Plaintiff, Mikaela Sanders (hereinafter “Plaintiff”), is a resident and citizen of Grand Forks, North Dakota.

2. The Plaintiff is informed and believes that the Defendant, City of Charleston, is a governmental entity organized and existing under the laws and Constitution of the State of South Carolina and within the meaning of the South Carolina Tort Claims Act of South Carolina Code Ann. § 15-78-30(a).

JURISDICTION AND VENUE

3. Because Plaintiff is a resident and citizen of the state of North Dakota and Defendant is a resident and citizen of the state of South Carolina, jurisdiction is proper with this Court based upon diversity jurisdiction pursuant to 28 U.S.C. § 1332.

4. Venue is proper in this judicial district and the Charleston Division pursuant to Local Rule 3.01 DSC because the acts giving rise to the action occurred substantially in this

District and Division.

5. Plaintiff has suffered damages which exceed \$75,000.00, exclusive of interest and costs.

FACTS

6. On August 17, 2020, at approximately 12:23pm, Plaintiff was riding her bike north on Meeting Street in the left lane of two northbound lanes of Meeting Street in Charleston, South Carolina. At such time and place, Plaintiff was attempting to make a left turn from Meeting Street on to Hutson Street.

7. At the same time Plaintiff was turning, a driver in a Ford van, Duane Felder, who was operating the vehicle in the course of his employment as an agent and/or employee of the City of Charleston, was driving south in the far right lane on Meeting Street. While there were two southbound lanes on Meeting Street at the intersection of Meeting Street and Hutson Street, at that time of day, the far right lane of Meeting Street in which Defendant's employee was driving was designated solely for traffic making a right turn.

8. Before turning left, Plaintiff carefully observed and checked for traffic in the southbound lanes of Meeting Street. After seeing that it was clear for her to turn, Plaintiff proceeded to bike towards Hutson Street.

9. Defendant's driver ignored the right turn only sign for the lane he was occupying, the far-right lane of Meeting Street, and proceeded to drive straight across the intersection with Hutson Street where he struck Plaintiff.

10. Defendant's van struck the lower half of Plaintiff's body, causing her to be thrown onto the hood of the van. She then struck the windshield of the van with her head and shoulder and then rolled off, impacting the asphalt.

11. As a result of being struck by Defendant's van, Plaintiff suffered a medial collateral ligament (hereinafter "MCL") tear to her right knee which required surgical repair. In addition, she suffered injuries to her left knee, ribs, chest and back.

FOR A FIRST CAUSE OF ACTION

(Negligence)

12. The Plaintiff re-alleges and reiterates all of the allegations contained in paragraphs 1 through 11, as fully as if repeated herein verbatim.

13. At all relevant times, Duane Felder was operating the Ford van as an agent and/or employee of the City of Charleston, a governmental entity, and was acting within the course and scope of his agency or employment with the City of Charleston, and under the direction and control of the City of Charleston at the time of the subject collision.

14. Defendant, through its driver Duane Felder owed a duty to Plaintiff to operate the vehicle safely, with reasonable care, and in accordance with all South Carolina laws concerning the operation of a motor vehicle.

15. Defendant, through its driver, Duane Felder, was negligent, willful, wanton, and reckless and breached the duties it owed to Plaintiff in the following particulars:

- (a) In failing to obey a traffic sign upon the roadway;
- (b) In failing to turn right while occupying a traffic lane designated for right turns only;
- (c) In failing to yield the right of way to the Plaintiff;
- (d) In operating a motor vehicle in a negligent and/or reckless manner;
- (e) In driving too fast for the conditions;
- (f) In failing to maintain proper control of a motor vehicle;

- (g) In failing to maintain a proper lookout;
- (h) In failing to use the degree of care and caution that a reasonably prudent driver would have used under the circumstances then and there prevailing;
- (i) In operating a vehicle without exercising reasonable care and in a negligent, willful, wanton, and reckless manner; and
- (j) In such other particulars as may be determined through discovery procedures undertaken pursuant to the Federal Rules of Civil Procedure.

16. As a direct and proximate result of the negligence, carelessness, willfulness, and recklessness of the Defendant as alleged above, the Plaintiff Mikaela Sanders has suffered serious, debilitating and painful injuries, including an MCL tear to her right knee that required surgical repair, as well as injuries to her left knee, ribs, chest and back which caused severe physical pain, scarring, disfigurement, emotional suffering and mental distress, and which have required her to expend monies for medical care, surgeries, rehabilitation, and other medical necessities. She has suffered and will continue to suffer physical pain and mental anguish in the future and will be required to expend further monies for future medical care. She has further suffered and will continue to suffer lost income past, present, and future; a diminished quality of life, disability, scarring, disfigurement and loss of enjoyment of life for which she is entitled to a judgment against the Defendant for actual damages in an amount to be ascertained by the jury at the trial of this case.

WHEREFORE, the Plaintiff prays for judgment against the Defendant for actual damages in an amount to be determined by the jury at the trial of this case, for the costs and disbursements of this action, and for such other and further relief as this Honorable Court deems just and proper.

s/Charles W. Whetstone, III

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July 1, 2022